

1 serve the summons and complaint within 120 days after the filing of the
2 complaint and does not show good cause for the failure. See Efaw v.
3 Williams, 473 F.3d 1038, 1041 (9th Cir. 2007); Hason v. Medical Bd. of
4 Calif., 279 F.3d 1167, 1174 (9th Cir. 2002), cert. dismissed, 538 U.S.
5 958 (2003); see also Fed. R. Civ. P. 4(c)(1) ("The plaintiff is
6 responsible for service of a summons and complaint within the time
7 allowed under subdivision (m)...."). The Court also has inherent power
8 to achieve the orderly and expeditious disposition of cases by
9 dismissing actions for failure to prosecute. See Fed. R. Civ. P.
10 41(b)(authorizing involuntary dismissal "[f]or failure of the plaintiff
11 to prosecute or to comply with these rules or any order of court"); Link
12 v. Wabash R.Co., 370 U.S. 626, 629-630 (1962) (discussing court's power
13 to dismiss an action with prejudice based upon a failure to prosecute).

14 Where, as here, a defendant is not served within 120 days after the
15 complaint is filed, the district court "must dismiss the action without
16 prejudice" or order that service be made within a specified time. If
17 the plaintiff shows good cause for the failure to effect service, "the
18 court must extend the time for service" Fed. R. Civ. P. 4(m).
19 Good cause to avoid dismissal under Rule 4(m) for failing to serve a
20 defendant within 120 days after the complaint is filed "may be
21 demonstrated by establishing, at minimum, excusable neglect. In
22 addition to excusable neglect, a plaintiff may be required to show the
23 following factors to bring the excuse to the level of good cause: '(a)
24 the party to be served personally received actual notice of the lawsuit;
25 (b) the defendant would suffer no prejudice; and (c) plaintiff would be
26 severely prejudiced if his complaint were dismissed.'" Lemoge v. United
27 States, 587 F.3d 1188, 1198 & n.3 (9th Cir. 2009) (citing In re Sheehan,
28 253 F.3d 507, 512 (9th Cir. 2001), and quoting Boudette v. Barnette, 923

1 F.2d 754, 756 (9th Cir. 1991)).¹

2 Plaintiff was advised of his obligation to effect timely service of
3 the summons and complaint on defendants or face dismissal of his
4 complaint. Despite being provided an opportunity to do so, plaintiff
5 has not filed proof of service of the summons and complaint on any
6 defendant, nor has he shown cause for his failure to do so.
7 Accordingly, this action is dismissed without prejudice.

8 **IT IS SO ORDERED.**

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10 DATED: Dec. 4, 2012



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12 Manuel L. Real
13 United States District Judge
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24 ¹ The "good cause" exception to Rule 4(m) applies "only in
25 limited circumstances" and is not satisfied by "inadvertent error
26 or ignorance of the governing rules." Hamilton v. Endell, 981 F.2d
27 1062, 1065 (9th Cir. 1992), abrogated on other grounds by Estate of
28 Ford v. Ramirez, 301 F.3d 1043, 1050 (9th Cir. 2002); see also
Townsel v. County of Contra Costa, 820 F.2d 319, 320 (9th Cir.
1987) (holding that the plaintiff's counsel's ignorance of Rule 4
was not good cause).

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

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| KANG-SHEN CHEN, |) | |
| |) | |
| Plaintiff, |) | Case No. SACV 12-1147 R (AJW) |
| |) | |
| v. |) | |
| |) | JUDGMENT |
| PAUL BECK, et al., |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

It is hereby adjudged that the action is dismissed without prejudice.

DATED: _____

Manuel L. Real
United States District Judge